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17 COMPANY

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN FRANCISCO DIVISION

21 JON PAUL SIMS, individually, and on
22 behalf of all those similarly situated,

23 Plaintiff,

24 vs.

25 METROPOLITAN LIFE INSURANCE
26 COMPANY AND DOES 1 THROUGH
27 100, inclusive,

28 Defendant.

Case No. 05 CV 2980 (TEH)

**STIPULATION TO FILE FIRST
AMENDED COMPLAINT; ~~PROPOSED~~
ORDER**

District Court Judge Thelton E. Henderson

1 WHEREAS, on or about June 14, 2005, Plaintiff Jon Paul Sims ("Plaintiff" or "Sims")
 2 filed this action in the Superior Court of California for the County of Sonoma, said case number
 3 being 236894;

4 WHEREAS, on or about July 21, 2005, Defendant Metropolitan Life Insurance Company
 5 ("MetLife" or "Defendant"), removed said action to the United States District Court for the
 6 Northern District of California;

7 WHEREAS, on or about June 15, 2006, Plaintiff filed a Notice of Motion and Motion for
 8 Leave to file a First Amended Complaint;

9 WHEREAS, said First Amended Complaint, among other things, seeks to add Michael B.
 10 Bagley and Jeffrey A. Pfeiffer as named Plaintiffs, and to abandon their claims and those of
 11 Plaintiff Sims under California Labor Code § 2802 and California Business and Professions Code
 12 § 17200 for individualized out-of-pocket charges;

13 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, between the
 14 parties that:

15 1) Plaintiff shall file his First Amended Complaint. The proposed First Amended
 16 Complaint attached hereto shall be and hereby is deemed filed and served on all parties as of the
 17 date of this Stipulation and Order;

18 2) Plaintiffs' claims, including those of newly added party-plaintiffs Michael B. Bagley
 19 and Jeffrey A. Pfeiffer, under California Labor Code § 2802 and California Business and
 20 Professions Code § 17200 for individualized out-of-pocket charges (i.e. charges and/or expenses
 21 outside of the Expense Allowance Plan ("EAP") of the Defendant) are hereby abandoned with
 22 prejudice as to this litigation; and

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3) MetLife shall not be required to further answer the First Amended Complaint, and all denials, responses and affirmative defenses contained in the answer filed by MetLife to the original Complaint will be, and are deemed responsive to the First Amended Complaint. MetLife further expressly shall retain any and all rights and defenses, including to assert counterclaims against Plaintiffs or to contest the validity of Plaintiffs' claims and/or their adequacy as representatives of any putative class.

Dated: July 3, 2006

MORGAN, LEWIS & BOCKIUS LLP

By: Rebecca D. Eisen
Rebecca D. Eisen
Attorneys for Defendant
METROPOLITAN LIFE INSURANCE
COMPANY

Dated: June 27, 2006

THE EDGAR LAW FIRM

By: Donald S. Edgar
Donald S. Edgar
Jeremy R. Fietz
Attorneys for Plaintiff
JON PAUL SIMS

PURSUANT TO STIPULATION, IT IS SO ORDERED.

07/06/06
Dated: June, 2006

UNITED STATES DISTRICT JUDGE

